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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
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11 ELLIS CLAY HOLLIS,  
12                                      Petitioner,  
13                      v.  
14 RONALD BLOOMFIELD,  
15                                      Respondent.  
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No. 2:22-CV-1052-WBS-DMC-P

FINDINGS AND RECOMMENDATIONS

17                      Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of  
18 habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the Court is Respondent's  
19 unopposed motion to dismiss. See ECF No. 9.

20                      Respondent argues this case must be dismissed because: (1) it is a second of  
21 successive habeas petition filed without prior leave of the Ninth Circuit Court of Appeals; and (2)  
22 the petition is untimely. See id. Pursuant to Eastern District of California Local Rule 23(c), (l),  
23 the Court may construe the failure to file an opposition to a motion as consent to the relief  
24 requested. Here, Petitioner had not filed an opposition within the time provided by the Local  
25 Rules and on December 14, 2022, the Court issued a minute order advising that failure to oppose  
26 the motion could be deemed consent to the relief requested. See ECF No. 12. The Court  
27 provided Petitioner an additional 30 days within which to file an opposition. To date, Petitioner  
28 has not filed any opposition to Respondent's motion, which the Court now recommends be

1 granted.

2 Based on the foregoing, the undersigned recommends that Respondent's  
3 unopposed motion to dismiss, ECF No. 9, be granted.

4 These findings and recommendations are submitted to the United States District  
5 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days  
6 after being served with these findings and recommendations, any party may file written objections  
7 with the Court. Responses to objections shall be filed within 14 days after service of objections.  
8 Failure to file objections within the specified time may waive the right to appeal. See Martinez v.  
9 Ylst, 951 F.2d 1153 (9th Cir. 1991).

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11 Dated: February 3, 2023



12 DENNIS M. COTA  
13 UNITED STATES MAGISTRATE JUDGE  
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